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OFFICE OF PETITIONS

In re Application of  
 Humayun et al.  
 Application No. 10/686,775  
 Filed: October 17, 2003  
 Attorney Docket No. 38530-017

:  
 : DECISION REFUSING STATUS  
 : UNDER 37 CFR 1.47(a)  
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This is in response to the petition under 37 CFR § 1.47(a), filed March 16, 2004.

The petition under 37 CFR. § 1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. § 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on October 17, 2003, without an executed oath or declaration. Accordingly, on January 16, 2004, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with § 1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of March 16, 2004.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, and a partially executed declaration. In support of the petition, applicants submitted copies of correspondence which was mailed to the non-signing inventor's legal representative as well as the declaration of Kelli N. Watson.

A grantable petition under 37 CFR. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirement (2).

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As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3)and (c)(1). Specifically, petitioner failed to provide the address and citizenship of inventor Scribner. Upon renewed petition, a executed oath or declaration with all inventors information must be provided. It should be noted there should not be two “first inventors”.

In addition the declaration executed by Inventor Humayun contains non-dated/non-initialed alterations to the signature block. Such alterations render the declaration unacceptable. A newly executed declaration for inventor Humayun is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition  
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P.O. Box 1450  
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By facsimile:

(703) 872-9306

By delivery service:  
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Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charles R. Hays

Charlema R. Grant  
Petitions Attorney  
Office of Petitions